IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12606 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUNILBHAI JOGINDERNATH DIWAN

Versus

RAMA RAJA RABARI

Appearance:

1. Special Civil Application No. 12606 of 2003

MR NL RAMNANI for Petitioner No. 1

DELETED for Respondent No. 1-2

MR SUNIL B PARIKH for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 16/10/2003

ORAL JUDGEMENT

The petitioner has been aggrieved by an order

passed by the MACT, Bhuj-Kutch dated 24.7.2003, whereby the petitioner's application for withdrawal of the entire amount deposited with Development Credit Bank Ltd., Bhuj, has been rejected.

2. The petitioner had submitted an application before the Tribunal for withdrawal of the entire amount for the reason that he wanted to purchase a building for himself. The petitioner had received the amount of compensation as he had met with an accident and had injured both his legs seriously. The petitoner had submitted before the Tribunal that he wanted the amount to purchase a house so that he can live peacefully in the house and he would not have any liability to pay rent in future. The application submitted by the petitioner had been rejected by the Tribunal for the reason that the petitioner was permitted to withdraw more than Rs. 3 lakhs out of the total amount awarded i.e. Rs. 5,71,000/-. Therefore, it was not in the interest of the petitioner to permit him to withdraw the balance amount of approximately Rs. 1.7 lakhs lying in the account.

3. Learned advocate Shri Sunil Parikh appearing for the respondent insurance company has submitted that the respondent insurance copany has accepted the award and no appeal has been filed by it. He has tried to support the order passed by the Tribunal.

4. I have heard the learned advocates and looking to the facts of the case, in my opinion, when the petitioner who has become disabled because of the accident, desires to purchase a residential house for himself, he should have been permitted to withdraw the said amount especially when an agreement to sell executed by the vendor of the property was placed on record before the Tribunal. The amount had been deposited with the bank in the interest of the petitioner so that the petitioner may not squander away the entire amount.

5. Looking to the peculiar facts of the case, the impugned order dated 24.7.2003 is quashed and set aside. The Tribunal is directed to permit the petitioner to withdraw the amount deposited with Development Credit Bank Ltd., Bhuj. The petitioner is permitted to get the FDR encashed prematurely.

In view of the above order, the petition stands disposed of as allowed. Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

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